

RECORDATION NO. 27329 FILED

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SURFACE TRANSPORTATION BOARD

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December 28, 2007

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
395 "E" Street, S.W.  
Washington, D.C. 20423-0001

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Security Agreement, dated as of December 27, 2007, a primary document as defined in the Board's Rules for the Recordation of Documents covering NOW OWNED AND HEREAFTER ACQUIRED rolling stock and interests in leases of rolling stock.

The names and addresses of the parties to the enclosed document are:

Security Trustee: Wells Fargo Bank Northwest, National  
Association (not in its individual capacity but  
solely as Security Trustee)  
299 South Main Street, 12<sup>th</sup> Floor  
Salt Lake City, Utah 84111

Borrower: AllCapital Rail 2007-2, LLC  
c/o AllCapital (US), LLC  
153 East 53rd Street, 55th Floor  
New York, New York 10022

Mr. Vernon A. Williams  
December 28, 2007  
Page 2

A description of the railroad equipment covered by the enclosed document is:

covering NOW OWNED AND HEREAFTER ACQUIRED rolling stock and interests in leases of rolling stock.

A short summary of the document to appear in the index is:

Memorandum of Assignment of Lease.

Also enclosed is a check in the amount of \$35.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/sem  
Enclosures

EXECUTION VERSION

RECORDATION NO. 27324 FILED

DEC 28 '07 -5 20 PM

SURFACE TRANSPORTATION BOARD

## SECURITY AGREEMENT

dated as of December 27, 2007

between

**ALLCAPITAL RAIL 2007-2, LLC,**  
as Borrower

and

**WELLS FARGO BANK NORTHWEST, NATIONAL ASSOCIATION,**  
not in its individual capacity but solely as Security Trustee

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Railcar and Lease Financing

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**Exhibit A – Form of Security Agreement Supplement**

**SECURITY AGREEMENT**, dated as of December 27, 2007 (this “**Security Agreement**”), by **ALLCAPITAL RAIL 2007-2, LLC**, a Delaware limited liability company (together with its successors and permitted assigns, “**ACR 2007-2**” or the “**Borrower**”), and **WELLS FARGO BANK NORTHWEST, NATIONAL ASSOCIATION**, a national banking association organized under the laws of the United States of America, not in its individual capacity but solely as security trustee (the “**Security Trustee**”).

**WITNESSETH:**

**WHEREAS**, ACR 2007-2, the Security Trustee, and BTMU Capital Corporation, as administrative agent and as initial lender, have entered into a Credit Agreement dated as of the date hereof (as amended, modified, supplemented or restated and in effect from time to time, the “**Credit Agreement**”) providing for the making of loans by the Lenders to finance the purchase of the Railcars; and

**WHEREAS**, it is a condition to the effectiveness of the Credit Agreement that this Security Agreement be executed and delivered by the Borrower to the Security Trustee for the purpose of subjecting all of the Borrower’s right, title and interest in and to the Collateral (as hereinafter defined) to the Lien hereof; and

**WHEREAS**, the Borrower desires to grant a mortgage, pledge and security interest in favor of the Security Trustee and to execute this Security Agreement to satisfy the conditions described in the preceding paragraph; and

**WHEREAS**, all things necessary to make this Security Agreement the valid, binding and legal obligation of the Borrower for the uses and purposes herein set forth, in accordance with its terms, have been done and performed and have happened.

**NOW, THEREFORE**, in consideration of the benefits accruing to the Borrower, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**ARTICLE 1**

**DEFINITIONS**

**SECTION 1.1. Definitions.** Unless the context otherwise requires, all capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Credit Agreement. All terms not specifically defined herein or by International Financial Reporting Standards (“IFRS”), which terms are defined in the Uniform Commercial Code as in effect in the State of New York, have the meanings assigned to them therein, with the terms “instrument” and “chattel paper” being that defined under Article 9 of the Uniform Commercial Code.

## ARTICLE 2

### GRANTING CLAUSES

**SECTION 2.1. Mortgage and Grant of Security Interest.** To secure the due and prompt payment of all indebtedness, obligations and liabilities of the Borrower to any of the Lenders, the Security Trustee, each Interest Rate Hedge Provider and the Administrative Agent, individually or collectively, existing on the date of the Credit Agreement or arising thereafter, direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising or incurred under the Credit Agreement, any of the other Transaction Documents or any of the Interest Rate Hedge Agreements or in respect of any Loan or any of the Notes (collectively, the “**Obligations**”) and the performance and observance by the Borrower of all the agreements, covenants and provisions in the Credit Agreement and in the other Transaction Documents, and for the uses and purposes and subject to the terms and provisions hereof, and in consideration of the premises and of the covenants herein contained, the sufficiency whereof is hereby acknowledged, the Borrower does hereby grant, bargain, sell, assign, transfer, convey, mortgage, pledge and confirm unto the Security Trustee and its successors and assigns, a security interest in and mortgage lien upon, all right, title and interest of the Borrower in, to and under the following described property, rights and privileges, whether now existing or hereafter acquired (which collectively, including all property hereafter specifically subjected to the Lien of this Security Agreement by a Security Agreement Supplement, shall constitute the “**Collateral**”), to wit:

(i) the Railcars and all replacements thereof and substitutions therefor to which the Borrower shall from time to time acquire title as provided herein and in the Leases, all as more particularly described in any Security Agreement Supplement executed and delivered with respect to any Railcar or any such replacements or substitutions therefor, as provided herein or in the Credit Agreement, and all records, logs and other documents at any time maintained with respect to the foregoing property;

(ii) each Lease which shall from time to time be assigned to the Borrower and shall be specified in a Security Agreement Supplement, and all Lease Payments, including, without limitation, all rent, insurance proceeds and requisition and other payments of any kind thereunder and including, without limitation, all rights of the Borrower to execute any election or option or to give any notice, consent, waiver, or approval under or in respect thereof or to accept any surrender of the Railcars subject thereto or any part thereof as well as any rights, powers or remedies on the part of the Borrower, whether arising under any such Lease or by statute or at law or in equity, or otherwise, arising as a consequence of any event of default under such Lease and any right to restitution from any Lessee thereunder in respect of any determination of invalidity of any such document;

(iii) each bill of sale, each purchase agreement and each assignment and assumption agreement that, in each case, is subjected to the Lien hereof pursuant to a Security Agreement Supplement;

(iv) all rents, issues, profits, revenues and other income of the relating to or arising from the Railcars or the Leases subjected or required to be subjected to the Lien of this

Security Agreement including all payments or proceeds payable to the Borrower after termination of any Lease with respect to the Railcars covered thereby as the result of the sale, lease or other disposition thereof, and all estate, right, title and interest of every nature whatsoever of the Borrower in and to the same and every part thereof (but excluding all payments and proceeds payable or paid to the Borrower in connection with any indemnity or liability insurance policy in the name of the Borrower or one of the Borrower's Affiliates);

(v) all insurance and requisition proceeds and all other payments of any kind with respect to the Railcars;

(vi) the Collection Account and all monies and securities deposited or required to be deposited therein or otherwise with the Security Trustee or the Borrower pursuant to any term of this Security Agreement or any Lease or required to be held by the Security Trustee hereunder;

(vii) all Accounts;

(viii) all Chattel Paper;

(ix) all Lease Agreements;

(x) all Contracts;

(xi) all Documents;

(xii) all General Intangibles;

(xiii) all Instruments;

(xiv) all Inventory;

(xv) all Supporting Obligations;

(xvi) all Equipment;

(xvii) all Letter-of-Credit Rights;

(xviii) all Commercial Tort Claims;

(xix) all Investment Property;

(xx) all Deposit Accounts;

(xxi) all property of the Borrower held by the Security Trustee including, without limitation, all property of every description now or hereafter in the possession or custody of or in transit to the Security Trustee for any purpose, including, without limitation, safekeeping, collection or pledge, for the account of the Borrower, or as to which the Borrower may have any right or power;



(xxii) to the extent not included above and without limiting the foregoing, all Chattel Paper, all Leases and all schedules, supplements, amendments, modifications, renewals, extensions, and guarantees thereof in every case whether now owned or hereafter acquired and all amounts, rentals, proceeds and other sums of money due and to become due under the Leases, including, without limitation, (i) all rentals, payments and other monies, including all insurance payments and claims for losses due and to become due to the Borrower under, and all claims for damages arising out of the breach of, any Lease; (ii) the right of the Borrower to terminate, perform under, or compel performance of the terms of any Lease; (iii) any guarantee of any Lease and (iv) any rights of the Borrower in respect of any subleases or assignments permitted under the Leases;

(xxiii) any and all payments made or due to the Borrower in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Borrower by any Governmental Authority and any other cash or non-cash receipts from the sale, exchange, collection or other disposition of the Collateral; and

(xxiv) to the extent not otherwise included, all income and Proceeds of each of the foregoing and all accessions to, substitutions and replacements for, and rents, profits and products of each of the foregoing;

The Security Trustee acknowledges that the attachment of its security interest in any Commercial Tort Claim as original collateral is subject to the Borrower's compliance with Section 4.4(vi).

#### **HABENDUM CLAUSE**

TO HAVE AND TO HOLD the Collateral as trustee for the benefit of the Lenders for the uses and purposes and subject to the terms and provisions set forth in this Security Agreement, to remain in full force and effect until terminated as provided in Section 8.1.

Pursuant to the Credit Agreement, the Borrower has agreed to direct the Manager and, at the Borrower's option, each Lessee that all Lease Payments and payments of all other amounts which are required pursuant to any Transaction Document to be paid to or deposited with the Security Trustee directly to the Collection Account, or as otherwise directed in writing by the Security Trustee pursuant to any Transaction Document, for application as provided in this Security Agreement.

The Borrower hereby warrants and represents that it has not sold, assigned or pledged, and hereby covenants that it will not, and as otherwise provided herein, sell, assign or pledge, any of its estate, right, title or interest hereby assigned, to anyone other than the Lenders and the Borrower hereby agrees that, with respect to such estate, right, title and interest hereby assigned, it will not, except as provided in this Security Agreement, submit or consent to the submission of any dispute, difference or other matter arising under or in respect of any of the Transaction Documents to arbitration thereunder except if expressly permitted to do so hereunder or under any other Transaction Document.

The Borrower hereby ratifies and confirms its obligations under the Transaction Documents.

IT IS HEREBY COVENANTED AND AGREED by and among the parties hereto as follows:

### ARTICLE 3

#### COLLECTION ACCOUNT; RECEIPT, DISTRIBUTION AND APPLICATION OF INCOME FROM THE COLLATERAL

SECTION 3.1. Collection Account. The Collection Account shall be established and maintained as set forth in the Credit Agreement.

SECTION 3.2. Payment Date. Except as otherwise provided in Section 3.3 hereof, on each Payment Date, all Lease Payments received into the Collection Account shall be applied as set forth in Section 3.1 of the Credit Agreement.

SECTION 3.3. Payments after Event of Default. All payments or proceeds comprising Collateral received and amounts realized by the Security Trustee and any proceeds comprising Collateral of an Event of Loss held in the Collection Account after an Event of Default shall have occurred and be continuing shall be distributed as set forth in Part II of Section 3.1(d) of the Credit Agreement.

SECTION 3.4. Certain Payments. Except as otherwise provided in this Security Agreement, any payments received by the Security Trustee for which provision as to the application thereof is made in the Leases shall be applied forthwith to the purpose for which such payment was made in accordance with the terms of the Leases

SECTION 3.5. Payments to the Borrower. Any amounts distributed hereunder by the Security Trustee to the Borrower shall be paid to the Borrower by wire transfer of funds of the type received by the Security Trustee at such office and to such account or accounts of such entity or entities as shall be designated by notice from the Borrower to the Security Trustee from time to time.

SECTION 3.6. Payments to the Lenders. Payments to the Lenders shall be distributed to them in accordance with Section 4.2 of the Credit Agreement.

### ARTICLE 4

#### COVENANTS

SECTION 4.1. Events of Loss; Replacement Railcars. Upon the Borrower obtaining knowledge of the occurrence of an Event of Loss with respect to any Railcar, the Borrower shall notify the Security Trustee, the Administrative Agent and the Lenders in writing within ten Business Days of obtaining such knowledge. If there is an Event of Loss with respect to any Railcar, the Borrower may, so long as no Event of Default is continuing and upon written notice to the Administrative Agent within thirty (30) days after each such Event of Loss occurs, elect to provide a Replacement Railcar within six (6) months after the date on which such Event of Loss occurs. If the Borrower has made an election to provide a Replacement Railcar but has not provided such Replacement Railcar within such six (6) month period, then the Borrower shall

pay the Allocable Debt for such Railcar, plus accrued unpaid interest thereon to the date of such prepayment, on the Payment Date immediately following the expiration of such six (6) month period. If the Borrower has failed to make an election with respect to providing a Replacement Railcar or elects to not provide a Replacement Railcar, the Borrower shall prepay the Allocable Debt for such Railcar, plus accrued unpaid interest thereon to the date of such prepayment, on the Payment Date immediately following the Collection Period in which the Casualty Proceeds are received or, if such Casualty Proceeds are not recovered by the six (6) month anniversary of such Event of Loss, on the Payment Date immediately following the expiration of such six (6) month period. In addition, the Borrower shall, not later than 30 days after the replacement of any Railcar following an Event of Loss in respect of such Railcar with a Replacement Railcar, execute and deliver a Security Agreement Supplement, covering the same, and such Security Agreement Supplement shall be duly filed with the STB and (if the applicable Lease allows the Railcar to be in Canada) the Registrar of Canada, and such UCC-1 amendments shall be filed in the jurisdictions in which the original such UCC-1 financing statements shall have been filed. Upon replacement or payment being made in respect of any Railcar subject to an Event of Loss under this Section 4.1, such Railcar shall thereupon cease to be subject to the Lien of this Security Agreement.

**SECTION 4.2. Covenant Concerning Borrower' Legal Status.** The Borrower covenants with the Lenders and the Security Trustee as follows: (a) without providing at least thirty (30) days prior written notice to the Security Trustee, the Borrower will not change its name, its place of business or, if more than one, chief executive office, or its mailing address or organizational identification number if it has one, (b) if the Borrower does not have an organizational identification number and later obtains one, the Borrower will forthwith notify the Security Trustee of such organizational identification number, and (c), the Borrower will not change its type of organization, jurisdiction of organization or other legal structure if prohibited by the Credit Agreement, except upon at least thirty (30) days prior written notice thereof to the Security Trustee and the Administrative Agent.

**SECTION 4.3. Covenants Concerning Collateral, Etc.** The Borrower further covenants with the Lenders and the Security Trustee as follows: (a) except for the security interest herein granted and, except for Permitted Liens, the Borrower shall be the owner of the Collateral free from any right or claim of any other person or any Lien, and the Borrower shall defend the same against all claims and demands of all persons at any time claiming the same or any interests therein adverse to the Security Trustee or any of the Lenders, (b) except as otherwise permitted under the Credit Agreement, the Borrower shall not pledge, mortgage or create, or suffer to exist any right of any person in or claim by any person to the Collateral, or any Lien in the Collateral in favor of any person, other than the Security Trustee, (c) the Borrower will keep or cause to be kept the Collateral in good order and repair and will not use the same in violation of law or any policy of insurance thereon, (d) the Borrower will permit the Security Trustee, or its designee, to inspect the Collateral at any reasonable time consistent with lessee operations, wherever located, in each instance in accordance with the terms and conditions set forth in the Credit Agreement, (e) the Borrower will pay, or cause to be paid, promptly when due all taxes, assessments, governmental charges and levies upon the Collateral or incurred in connection with the use or operation of the Collateral or incurred in connection with this Security Agreement in accordance with the terms and conditions set forth in the Credit Agreement, (f) the Borrower, in accordance with the terms and conditions set forth in the Credit Agreement, will

continue to operate its business in compliance with all applicable provisions of the federal Fair Labor Standards Act, as amended, and with all applicable provisions of federal, state and local statutes and ordinances dealing with the control, shipment, storage or disposal of hazardous materials or substances, and (g) except as otherwise permitted hereunder or under the Credit Agreement, the Borrower will not sell or otherwise dispose, or offer to sell or otherwise dispose, of the Collateral or any interest therein.

**SECTION 4.4. Other Actions.** Further to insure the attachment, perfection and first priority of, and the ability of the Security Trustee to enforce, the Security Trustee's security interest in the Collateral, the Borrower agrees, in each case at the Borrower's expense, to take the following actions with respect to the following Collateral and without limitation on the Borrower's other obligations contained in this Security Agreement:

(i) **Promissory Notes and Tangible Chattel Paper.** If the Borrower shall, now or at any time hereafter, hold or acquire any promissory notes in an aggregate amount of \$100,000 or more, the Borrower shall forthwith endorse, assign and deliver the same to the Security Trustee, accompanied by such instruments of transfer or assignment duly executed in blank as the Security Trustee may from time to time specify.

(ii) **Deposit Accounts.** For each deposit account that the Borrower at any time open or maintain, the Borrower shall, at the Security Trustee's request and option, pursuant to an agreement in form and substance satisfactory to the Security Trustee, either (a) cause the depository bank to agree to comply, without further consent of the Borrower, at any time while an Event of Default is continuing, with instructions from the Security Trustee to such depository bank directing the disposition of funds from time to time credited to such deposit account, or (b) cause the Security Trustee to become the bank at which any such deposit account is maintained. The provisions of this paragraph shall not apply to (i) any deposit accounts which solely contain proceeds of other secured parties' collateral or other lenders' collateral, (ii) any deposit account for which the Security Trustee is the depository bank and is in automatic control and (iii) any deposit accounts specially and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of the Borrower's salaried employees. Prior to an Event of Default, the Security Trustee shall not pursue its foregoing rights with respect to deposit accounts which do not contain proceeds of its Collateral.

(iii) **Investment Property.** If the Borrower shall at any time hold or acquire any certificated securities (other than Cash Equivalents and Eligible Investments in the Collection Account), the Borrower shall forthwith endorse, assign and deliver the same to the Security Trustee, accompanied by such instruments of transfer or assignment duly executed in blank as the Security Trustee may from time to time specify. If any securities now or hereafter acquired by the Borrower (other than Cash Equivalents and Eligible Investments in the Collection Account) are uncertificated and are issued to the Borrower or its nominee directly by the issuer thereof, the Borrower shall immediately notify the Security Trustee thereof and, at the Security Trustee's request and option, pursuant to an agreement in form and substance satisfactory to the Security Trustee, either (a) cause the issuer to agree to comply without further consent of the Borrower or such nominee, at any time with instructions from the Security Trustee as to such securities, or (b) arrange for the Security Trustee to become the registered owner of the securities. If any securities, whether certificated or uncertificated, or other investment

property now or hereafter acquired (other than Cash Equivalents and Eligible Investments in the Collection Account) by the Borrower are held by the Borrower or its nominee through a securities intermediary or commodity intermediary, the Borrower shall immediately notify the Security Trustee thereof and, at the Security Trustee's request and option, pursuant to an agreement in form and substance satisfactory to the Security Trustee, either (i) cause such securities intermediary or (as the case may be) commodity intermediary to agree to comply, in each case without further consent of the Borrower or such nominee, at any time with entitlement orders or other instructions from the Security Trustee to such securities intermediary as to such securities or other investment property (other than Cash Equivalents and Eligible Investments in the Collection Account), or (as the case may be) to apply any value distributed on account of any commodity contract as directed by the Security Trustee to such commodity intermediary, or (ii) in the case of financial assets or other investment property (other than Cash Equivalents and Eligible Investments in the Collection Account) held through a securities intermediary, arrange for the Security Trustee to become the entitlement holder with respect to such investment property, with the Borrower being permitted, only with the consent of the Security Trustee, to exercise rights to withdraw or otherwise deal with such investment property.

(iv) Electronic Chattel Paper and Transferable Records. If the Borrower at any time holds or acquires an interest in any electronic chattel paper, any electronic document or any "transferable record," as that term is defined in Section 7021 of the federal Electronic Signatures in Global and National Commerce Act, or in §16 of the Uniform Electronic Transactions Act as in effect in any relevant jurisdiction, the Borrower shall promptly notify the Security Trustee thereof and, at the request and option of the Security Trustee, shall take such action as the Security Trustee may reasonably request to vest in the Security Trustee control, under §9-105 of the Uniform Commercial Code of such electronic chattel paper, control, under §7-106 of the Uniform Commercial Code, of such electronic document or control, under Section 201 of the federal Electronic Signatures in Global and National Commerce Act or, as the case may be, §16 of the Uniform Electronic Transactions Act, as so in effect in such jurisdiction, of such transferable record.

(v) Letter-of-Credit Rights. If the Borrower is at any time a beneficiary under one or more letters of credit in an amount or aggregate amount of \$100,000 or more, now or hereafter, the Borrower shall promptly notify the Security Trustee thereof and, at the request and option of the Security Trustee, the Borrower shall, pursuant to an agreement in form and substance satisfactory to the Security Trustee, either (a) arrange for the issuer and any confirmer or other nominated person of such letter of credit to consent to an assignment to the Security Trustee of the proceeds of the letter of credit or (b) arrange for the Security Trustee to become the transferee beneficiary of the letter of credit, with the Security Trustee agreeing, in each case, that the proceeds of the letter of credit are to be applied as provided in the Credit Agreement.

(vi) Commercial Tort Claims. If the Borrower shall, now or at any time hereafter, hold or acquire a commercial tort claim or claims in an aggregate amount of \$100,000 or more, the Borrower shall immediately notify the Security Trustee in a writing signed by the Borrower of the particulars thereof and grant to the Security Trustee, for the benefit of the Lenders, in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Security Agreement, with such writing to be in form and substance satisfactory to the Security Trustee.

(vii) Accounts Receivable; Leases. With respect to all existing Leases of the Borrower that are Collateral hereunder or pursuant to which the Borrower leases Railcars or other equipment comprising Collateral to third parties, the Borrower, unless otherwise permitted by the Security Trustee, shall conspicuously stamp the Borrower's original counterpart of each such Lease and any other counterpart thereof that comes into the Borrower's possession with a legend, in form and substance satisfactory to the Security Trustee, clearly indicating that such Lease and a portion or all of the Railcars or other equipment comprising Collateral leased thereunder are subject to the security interest granted pursuant hereto. Except with respect to Leases purchased in a portfolio, with respect to all Leases of the Borrower entered into on or after the date hereof (x) that will constitute Collateral hereunder or (y) pursuant to which the Borrower (or the Manager on behalf of the Borrower), as lessor, will lease Railcars or other equipment comprising Collateral to third parties, (or the Manager, on behalf of the Borrower) Borrower agrees that (i) each such Lease shall be executed in at least two original counterparts, one and only one of which shall be designated the "Lessor's Original", (ii) only the Lessor's Original counterpart of each such Lease shall be deemed to constitute chattel paper under the Uniform Commercial Code and (iii) each such Lease shall contain a provision setting forth the substance of the terms contained in clauses (i) and (ii) of this sentence. The Borrower shall conspicuously stamp the Lessor's Original counterpart of each such Lease and any other counterpart thereof that comes into the Borrower's possession with a legend, clearly indicating that such Lease and a portion or all of the Railcars or other equipment comprising Collateral leased thereunder are subject to the security interest as indicated in this Security Agreement. The Borrower shall provide to the Security Trustee upon request copies of any Leases to which any portion of the Collateral is subject. Notwithstanding the foregoing in this paragraph (vii), in the event that any Lease shall consist of a schedule issued pursuant to and incorporating the terms of a master lease, the foregoing provisions shall apply only to the applicable schedule and shall not apply to the corresponding master lease.

(viii) Other Actions as to any and all Collateral. The Borrower further agrees to take such further actions with respect to the Collateral as may be required pursuant to Section 7.7 of the Credit Agreement.

(ix) Collateral in the Possession of a Bailee. If any Collateral is, now or at any time hereafter, in the possession of a bailee, the Borrower shall promptly notify the Security Trustee thereof and, at the Security Trustee's request and option, shall promptly obtain an acknowledgement from the bailee, in form and substance satisfactory to the Security Trustee, that the bailee holds such Collateral for the benefit of Security Trustee and such bailee's agreement to comply, without further consent of the Borrower, at any time with instructions of the Security Trustee as to such Collateral. This Section 4.4(ix) shall not apply to any Collateral in the possession of a bailee solely pursuant to a Permitted Lien.

**SECTION 4.5. Relation to Other Security Documents.** Concurrently herewith (to the extent not executed and delivered prior to the date hereof) AllCapital Rail 2007-2 Holdings, LLC, is executing and delivering to the Security Trustee, for the benefit of the Lenders, a pledge agreement pursuant to which the AllCapital Rail 2007-2 Holdings, LLC, is pledging to the Security Trustee all of the limited liability company interests of the Borrower. Such pledge shall be governed by the terms of such pledge agreement and not by the terms of this Security Agreement.

## **ARTICLE 5**

### **COLLECTION ACCOUNT**

SECTION 5.1. Investments. Amounts on deposit in the Collection Account shall be invested from time to time by the Security Trustee at the direction of (x) so long as no Event of Default has occurred, the Borrower, or (y) if an Event of Default shall have occurred and be continuing, the Administrative Agent, in the manner specified in Section 3.4 of the Credit Agreement.

SECTION 5.2. Relation to Other Security Documents. Concurrently herewith (to the extent not executed and delivered prior to the date hereof) ARC 2007-2 is executing and delivering to the Security Trustee, for the benefit of the Lenders and the Interest Rate Hedge Providers, the Control Agreement pursuant to which the Company is granting to the Security Trustee "control" over the Collection Account. The Control Agreement shall be interpreted in a manner consistent with the terms of this Agreement.

## **ARTICLE 6**

### **REMEDIES**

SECTION 6.1. Remedies Generally. If an Event of Default shall have occurred and be continuing and so long as the same shall be continuing unremedied, then and in every such case (unless all Obligations are paid in full in accordance with the Credit Agreement), the Lenders or the Security Trustee, as the case may be, may exercise any or all of the rights and powers and pursue any and all of the remedies pursuant to this Article 6, and shall have and may exercise all of the rights and remedies of a secured party under the Uniform Commercial Code and any other applicable law, and, subject to Section 8.4 hereof, may take possession of all or any part of the properties covered or intended to be covered by the Lien and security interest created by, or pursuant to, the Security Documents and may exclude the Borrower and the Lessee and all Persons claiming under any of them wholly or partly therefrom. Without limiting any of the foregoing, it is understood and agreed that the Security Trustee may exercise any right of sale of the Railcars available to it, even though it shall not have taken possession of the Railcars and shall not have possession thereof at the time of such sale. The Security Trustee hereby covenants and agrees that it will not deliver under any Control Agreement an Entitlement Order (as defined therein) unless an Event of Default has occurred and is continuing, and it will rescind any such previously delivered Entitlement Order if no Event of Default is continuing.

SECTION 6.2. Return of Railcars, etc. The Borrower agrees, to the full extent that it lawfully may, that, in case an Event of Default shall have occurred and be continuing, then, and in every such case but subject to Section 8.4 hereof, the Security Trustee may take possession of all or any part of the Collateral and may exclude the Borrower and all Persons claiming under it wholly or partly therefrom. In addition, the Security Trustee may exercise any or all of the rights and powers and pursue any and all of the remedies available to it hereunder, including, without limitation, the taking of possession of all or any part of the Collateral as provided herein, and whether or not the Security Trustee shall have possession of the Collateral, the Security Trustee may (with the consent of the Required Lenders) sell, assign, transfer and deliver the whole, or

from time to time to the extent permitted by law, any part of the Collateral or any interest therein, at any private sale or public auction with or without demand, advertisement or notice (except as herein required or as may be required by law) of the date, time and place of sale and for such price or prices and on such terms as the Security Trustee, as directed by the Required Lenders, may determine, or as may be required by law. It is agreed that 10 days' notice to the Borrower of the date, time and place (and terms, in the case of a private sale) of any proposed sale by the Security Trustee of the Collateral or any part thereof or interest therein is reasonable. To the extent permitted by applicable law, the Security Trustee and a Lender may be a purchaser of the Collateral or any part thereof or any interest therein at any such sale thereof, whether pursuant to foreclosure or power of sale or otherwise. The Security Trustee or such Lender may apply against the purchase price therefor the amount then due to it and secured hereby. The Security Trustee or any such Lender, upon any such purchase, shall acquire good title to the property so purchased, to the extent permitted by applicable law, free of the Borrower's rights of redemption.

(i) Upon any sale of the Collateral or any part thereof or interest therein pursuant hereto, whether pursuant to foreclosure or power of sale or otherwise, the receipt of the official making the sale by judicial proceeding or of the Security Trustee shall be sufficient discharge to the purchaser for the purchase money, and neither such official nor such purchaser shall be obligated to see to the application thereof.

(ii) If an Event of Default shall have occurred and be continuing, the Security Trustee shall, as a matter of right, be entitled to the appointment of a receiver (who may be the Security Trustee or any successor or nominee thereof) for all or any part of the Collateral, whether such receivership be incidental to a proposed sale of the Collateral or the taking of possession thereof or otherwise, and the Borrower hereby consents to the appointment of such a receiver and will not oppose any such appointment. Any receiver appointed for all or any part of the Collateral shall be entitled to exercise all the rights and powers and pursue all the remedies hereunder with respect to the Collateral.

(iii) Any sale of the Collateral or any part thereof or any interest therein, whether pursuant to foreclosure or power of sale or otherwise hereunder, shall forever be a perpetual bar against the Borrower after the expiration of the period, if any, during which such Person shall have the benefit of redemption laws which may not be waived as provided above.

(iv) if an Event of Default shall have occurred and be continuing, and the Loans shall have been accelerated, at the request of the Security Trustee, subject to Section 8.4 hereof, the Borrower shall promptly execute and deliver to the Security Trustee such instruments of title and other documents as the Security Trustee may deem necessary or advisable to enable the Security Trustee or an agent or representative designated by the Security Trustee, at such time or times and place or places as the Security Trustee may specify, to obtain possession of all or any part of the Collateral to which the Security Trustee shall at the time be entitled hereunder. Subject to Section 8.4 hereof, if the Borrower shall for any reason fail to execute and deliver such instruments and documents after such request by the Security Trustee, the Security Trustee may (x) obtain a judgment conferring on the Security Trustee the right to immediate possession and collection and requiring the Borrower to deliver such instruments of title and other documents as the Security Trustee may deem necessary or advisable to enable the Security Trustee or an agent or representative designated by the Security Trustee, at such time or times



and place or places as the Security Trustee may specify, to obtain possession of all or any part of the Collateral, to the entry of which judgment the Borrower hereby specifically consent, and (y) pursue all or part of the Collateral wherever it may be found. Upon every such taking of possession, the Security Trustee may, from time to time, at the expense of the Collateral, make all such expenditures for maintenance, insurance, repairs, replacements, alterations, additions and improvements to and of the Collateral, as it may deem proper. In each such case, the Security Trustee shall have the right, subject to Section 8.4 hereof and with the consent of the Required Lenders, to use, operate, store, control, sell, transfer, convey or otherwise dispose of or manage the Collateral, and to exercise all rights and powers of the Borrower relating to the Collateral, as the Security Trustee shall deem best, including the right to enter into any and all such agreements with respect to the maintenance, operation, leasing or storage of the Collateral or any part thereof as the Security Trustee may reasonably determine; and the Security Trustee shall be entitled, subject to Section 8.4 hereof, to collect and receive all tolls, rents, revenues, issues, income, products and profits of the Collateral and every part thereof without prejudice, however, to the right of the Security Trustee under any provision of this Security Agreement to collect and receive all cash held by, or required to be deposited with, the Security Trustee hereunder. Such tolls, rents, revenues, issues, income, products and profits shall be applied to pay the expenses of holding and operating the Collateral and of conducting the business thereof, and of all maintenance, repairs, replacements, alterations, additions and improvements, and to make all payments that the Security Trustee may be required or may elect to make as aforesaid, if any, for taxes, assessments, insurance or other proper charges upon the Collateral or any part thereof and all other payments that the Security Trustee may be required or authorized to make under any provision of this Security Agreement, as well as just and reasonable compensation for the services of the Security Trustee and all Persons properly engaged and employed by the Security Trustee, including the reasonable expenses of the Security Trustee.

**SECTION 6.3. Sale of Railcars by Security Trustee Is Binding.** Any sale or other conveyance of the Railcars by the Security Trustee made pursuant to the terms of this Security Agreement shall bind the Borrower and the Lenders and shall be effective to transfer or convey all right, title and interest of the Security Trustee, the Borrower and the Lenders in and to the Railcars subject to Section 8.4 hereof. No purchaser or other grantee shall be required to inquire as to the authorization, necessity, expediency or regularity of such sale or conveyance or as to the application by the Security Trustee of any sale or other proceeds with respect thereto.

**SECTION 6.4. Remedies Cumulative.** Each and every right, power and remedy herein specifically given to the Security Trustee or otherwise in this Security Agreement or any other Transaction Document shall be cumulative and shall be in addition to every other right, power and remedy herein specifically given or now hereafter existing at law, in equity or by statute, and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Security Trustee, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the time or thereafter any other right, power or remedy. No delay or omission by the Security Trustee in the exercise of any right, remedy or power or in the pursuit of any remedy shall impair any such right, power or remedy or be construed to be a waiver of any default on the part of the Borrower or to be an acquiescence therein.

**SECTION 6.5. Discontinuance of Proceedings.** In case the Security Trustee shall have proceeded to enforce any right, power or remedy under this Security Agreement or any other Transaction Document by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Security Trustee, then and in every such case the Borrower and the Security Trustee shall, subject to any determination in any such proceeding, be restored to their former positions and rights hereunder with respect to the Collateral, and all rights, remedies and powers of the Security Trustee shall continue as if no such proceedings had been undertaken (but otherwise without prejudice).

## **ARTICLE 7**

### **SUPPLEMENTS AND AMENDMENTS TO THIS MORTGAGE AND OTHER DOCUMENTS**

**SECTION 7.1. Instructions of Required Lenders; Limitations.** At any time and from time to time, the Borrower and the Security Trustee (but only upon the written request of the requisite amount of lenders set forth in the Credit Agreement) shall execute a supplement hereto for the purpose of adding provisions to, or changing or eliminating provisions of this Security Agreement as specified in such request for the purpose of better fulfilling the provisions and intentions of this Security Agreement (including, without limitation, the grant, or purposed grant, of the security interest in the Collateral), but without changing the substance hereof.

**SECTION 7.2. Security Trustee Protected.** If, in the reasonable judgment of the Security Trustee, any document required to be executed pursuant to the terms of Section 7.1 hereof adversely affects any right, duty, immunity or indemnity with respect to such institution under this Security Agreement, such institution may in its discretion decline to execute such document.

## **ARTICLE 8**

### **MISCELLANEOUS**

**SECTION 8.1. Termination of Security Interest.** (a) Full Release. Upon (or at any time after) payment in full of the principal of and interest on the Loans and all other amounts then due under the Credit Agreement, the termination of all Commitments thereunder and repayment of all amounts then owing under each Interest Rate Hedge Agreement entered into in accordance with the terms of the Credit Agreement, and provided that there shall then be no other amounts due to the Lenders and the Security Trustee hereunder or otherwise secured hereby, the Lien of this Security Agreement shall automatically terminate, and the Borrower shall direct the Security Trustee to execute and deliver to or as directed in writing by the Borrower an appropriate instrument releasing the Railcars and the balance of the Collateral from the Lien of this Security Agreement, and the Security Trustee shall execute and deliver such instrument as aforesaid and will execute and deliver such other instruments or documents as may be reasonably requested by the Borrower or Lessees to give effect to such release; provided, however, that this Security Agreement shall earlier terminate and shall be of no further force or effect upon any sale or other final disposition by the Security Trustee of all property constituting

part of the Collateral and the final distribution by the Security Trustee of all moneys or other property or proceeds constituting part of the Collateral in accordance with the terms hereof.

(b) Partial Release on Disposition or Event of Loss. Upon (or at any time after) receipt in the Collection Account of the Allocable Debt attributable to any Railcar sold or otherwise disposed of in accordance with the terms of the Credit Agreement, and provided that there shall then be no other amounts related to such portion of Loan due to the Lenders and the Security Trustee hereunder or otherwise secured hereby, the Lien of this Security Agreement shall automatically terminate with respect to such affected Railcars and the related Lease Agreement, and the Borrower shall direct the Security Trustee to execute and deliver to or as directed in writing by the Borrower or Lessees an appropriate instrument releasing such Railcars from the Lien of this Security Agreement, and the Security Trustee shall execute and deliver such instrument as aforesaid and will execute and deliver such other instruments or documents as may be reasonably requested by the Borrower or Lessees to give effect to such release.

(ii) If, pursuant to any purchase agreement, the Borrower shall be obligated to return an amount of rent to any seller in respect of any Railcar either (1) in respect of any accrual period preceding the date of purchase of such Railcar or (2) which was subject to an Event of Loss on or prior to the date of purchase thereof by the Borrower, then, upon the instructions of the Borrower, the Security Trustee shall cause such amount of rent to be withdrawn from the Collection Account and returned to such seller and the Lien of this Security Agreement with respect to such amount shall be released.

(iii) If, pursuant to any purchase agreement, the seller thereunder shall have reimbursed the Borrower (by making payment into the Collection Account) for any Railcar subject to such purchase agreement that is found to have suffered an Event of Loss prior to the date of purchase (or which has been purchased subject to the receipt of proceeds arising from such Event of Loss and where the Borrower has not drawn an allocable portion of the Loan (determined based on Equipment Values of the affected Railcars), then, upon instructions of the Borrower, the Security Trustee shall cause any insurance or AAR 107 proceeds received in respect of such Railcar and paid into the Collection Account to be withdrawn from the Collection Account and returned to such seller (or, where the Borrower has purchased the Railcar subject to the receipt of proceeds arising from such Event of Loss as contemplated above, the Borrower) and the Lien of this Security Agreement with respect to such amount shall be released.

**SECTION 8.2. No Legal Title to Collateral in Security Trustee or Lenders.** Subject to the provisions of Section 6 hereof, neither the Security Trustee nor any Lender shall have legal title to any part of the Collateral. No transfer, by operation of law or otherwise, of any Loan or other right, title and interest of any Lender in and to the Collateral or hereunder shall operate to terminate this Security Agreement or entitle the Security Trustee, any Lender or any successor or transferee of such Lender to an accounting or to the transfer to it of legal title to any part of the Collateral.

**SECTION 8.3. Security Interest for Benefit of Security Trustee, Borrower and Lenders.** Nothing in this Security Agreement, whether express or implied, shall be construed to give any legal or equitable right, remedy or claim to any Person other than the Borrower, the Security Trustee, the Lenders and, where expressly referred to, Lessees.

**SECTION 8.4. No Action Contrary to Lessees' Rights Under the Leases.** Notwithstanding any of the provisions of this Security Agreement to the contrary, including without limitation the provisions of Article VI hereof, so long as no "event of default" shall have occurred and be continuing under any Lease, the Security Trustee agrees for the benefit of the Borrower and the Lessees that it will not take any action contrary to the Lessees' rights under such Lease or otherwise in any way interfere with the quiet, peaceful and continuing enjoyment of the use and possession of the Equipment provided for in such Lease, and that the Lessees shall be and remain entitled to all rights and privileges under the Leases. If requested by the Borrower, the Security Trustee shall confirm the foregoing in writing directly to the Lessees.

Without limiting the generality of the foregoing, whenever the Lessees are entitled under the Leases to receive title to any Railcars, the Security Trustee will, upon satisfaction by the Lessees of all applicable conditions under the Leases, release such Railcars from the Lien of this Security Agreement.

**SECTION 8.5. Notices.** Unless otherwise expressly specified or permitted by the terms hereof all notices, requests, demands, authorizations, directions, consents, waivers or documents provided or permitted by this Security Agreement to be made, given, furnished or filed, as the case may be, shall be in made in the manner and sent to the addresses set forth in Section 13.6 of the Credit Agreement or such other address as may be provided pursuant to such Section.

**SECTION 8.6. Governing Law.** This Security Agreement shall be governed by and construed in accordance with the law of the State of New York.

**SECTION 8.7. Action by Security Trustee.** The Security Trustee will hold in accordance with this Security Agreement all items of the Collateral at any time received under this Security Agreement. It is expressly understood and agreed that the obligations of the Security Trustee as holder of the Collateral and interests therein and with respect to the disposition thereof and otherwise under this Security Agreement, are only those expressly set forth in this Security Agreement.

**SECTION 8.8. Severability.** The invalidity of any one or more of the provisions of this Security Agreement or of any Security Agreement Supplement shall not affect the remaining provisions of this Security Agreement or of any Security Agreement Supplement. In the event that one or more of the provisions of this Security Agreement or any Security Agreement Supplement should be held by any court of law to be invalid in any jurisdiction, or should operate to render this Security Agreement or any Security Agreement Supplement invalid or to impair the Lien of this Security Agreement or any Security Agreement Supplement on all or the major portion of the property intended to be mortgaged hereunder in any jurisdiction, this Security Agreement and all Security Agreement Supplements shall be construed as if such provisions had not been contained therein in such jurisdiction, and such provision and such Lien shall remain valid and enforceable in all other jurisdictions.

**SECTION 8.9. Counterparts.** This Security Agreement and any Security Agreement Supplement may be executed in counterparts, and each such counterpart shall for all purposes be

deemed to be an original, and all such counterparts shall together constitute one and the same Security Agreement or Security Agreement Supplement, as the case may be.

**SECTION 8.10. Power of Attorney.** The Borrower hereby irrevocably constitutes and appoints the Security Trustee its true and lawful attorney with full power and authority, from and after the occurrence and during the continuance of an Event of Default in the name of the Borrower or otherwise, to act, require, demand, receive, compound and give acquittance for any and all monies and claims for monies due or to become due to the Borrower under or arising out of the Collateral, to endorse any checks or other instruments or orders in connection therewith and to file any claims or, subject to Section 8.4 hereof, take any action or institute any proceedings which the Security Trustee may deem to be necessary or advisable in the premises, which appointment as attorney is coupled with an interest.

IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement to be duly executed, as of the day and year first above written.

**ALLCAPITAL RAIL 2007-2, LLC**

By   
Name: \_\_\_\_\_  
Title: **Colum Carr  
Manager**

**Security Agreement**

I certify that I hold the title set forth below, that this instrument was signed on behalf of AllCapital Rail 2007-2, LLC by authority of its managers and that I acknowledge that the execution of the foregoing instrument was the free act and deed of AllCapital Rail 2007-2, LLC. I further declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

ALLCAPITAL RAIL 2007-2, LLC

By: 

Name: IAN MALIN

Title: MANAGER

**WELLS FARGO BANK NORTHWEST,  
NATIONAL ASSOCIATION, not in its individual  
capacity but solely as Security Trustee**

By 

Name:

Title:

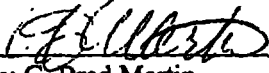
Jon Croasmun  
Vice President

**Security Agreement**



I certify that I hold the title set forth below, that this instrument was signed on behalf of Wells Fargo Bank Northwest, National Association, by authority of its board of directors and that I acknowledge that the execution of the foregoing instrument was the free act and deed of Wells Fargo Bank Northwest, National Association. I further declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

WELLS FARGO BANK  
NORTHWEST, NATIONAL  
ASSOCIATION, not in its  
individual capacity but solely as  
Security Trustee

By:   
Name: G. Brad Martin  
Title: Assistant Vice President

**Exhibit A**

**SECURITY AGREEMENT SUPPLEMENT NO. \_\_**

This SECURITY AGREEMENT SUPPLEMENT NO. \_\_, dated \_\_\_\_\_, \_\_\_\_\_, by ALLCAPITAL RAIL 2007-2, LLC, a Delaware limited liability company (together with its successors and permitted assigns, "ACR 2007-2"), in favor of WELLS FARGO BANK NORTHWEST, NATIONAL ASSOCIATION, not in its individual capacity but solely as Security Trustee under the Security Agreement referred to below (together with its successors and permitted assigns, the "Security Trustee").

WHEREAS, the Borrower has heretofore executed and delivered to the Security Trustee the Security Agreement dated as of December 27, 2007 (as amended, supplemented or restated and in effect from time to time, the "**Security Agreement**") which Security Agreement provides for the execution and delivery of supplements thereto substantially in the form hereof which shall particularly describe the Railcars and any Replacement Railcars included in the Collateral and shall specifically mortgage such Railcars or Replacement Railcars, as the case may be, to the Security Trustee (terms used in this instrument having the meanings assigned thereto in the Security Agreement);

NOW, THEREFORE, to secure the due and prompt payment of the Obligations and the performance and observance by the Borrower of all the agreements, covenants and provisions for the benefit of the Lenders in the Security Agreement, in the Credit Agreement and in the other Transaction Documents contained, and for the uses and purposes and subject to the terms and provisions of the Security Agreement, and in consideration of the premises and of the covenants contained in the Security Agreement, the sufficiency whereof is hereby acknowledged, the Borrower has granted, bargained, sold, assigned, transferred and conveyed, and mortgaged, pledged and confirmed, and does hereby grant, bargain, sell, assign, transfer and convey unto the Security Trustee and its successors and assigns for the benefit of the Lenders, and mortgage, pledge and confirm, unto the Security Trustee and its successors and assigns for the security and benefit of the Lenders a security interest in and first mortgage lien upon, all right, title and interest of the Borrower in, to and under the property described in Schedule I hereto.

This Security Agreement Supplement shall be construed as supplemental to the Security Agreement and shall form a part thereof and the Security Agreement is hereby incorporated by reference herein to the same extent as if fully set forth herein and is hereby ratified, approved and confirmed in all respects.

This Security Agreement Supplement shall be governed by and construed in accordance with the laws of the State of New York and is being delivered in the State of New York.

IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement Supplement No. \_\_ to be duly executed, as of the day and year first above written.

**ALLCAPITAL RAIL 2007-2, LLC**

By \_\_\_\_\_  
Name:  
Title:

**WELLS FARGO BANK NORTHWEST,  
NATIONAL ASSOCIATION**, not in its individual  
capacity but solely as Security Trustee

By \_\_\_\_\_  
Name:  
Title:

Schedule  
(Security Agreement Supplement No. \_\_ )

I

Railcars

\_\_\_\_\_  
with railcar marks \_\_\_\_\_ through \_\_\_\_\_

together with all substitutions, replacements and renewals of the property above described, and all property which shall hereafter become physically attached to or incorporated in the property above described, whether the Borrower now has rights therein or such rights shall hereafter be acquired by it.

Lease

\_\_\_\_\_

Other Documents

\_\_\_\_\_

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: 12/28/07



\_\_\_\_\_  
Robert W. Alvord